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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,587	01/25/2005	Stephen Currid	232.7548USU	2546

7590 12/23/2005

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EXAMINER

KRISHNAMURTHY, RAMESH

ART UNIT	PAPER NUMBER
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3753

DATE MAILED: 12/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/089,587

Applicant(s)

CURRID, STEPHEN

Examiner

Ramesh Krishnamurthy

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 - 5, 7 - 13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 5 & 7 - 13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

This office action is responsive to amendment filed 10/17/05.

**Claims 1 – 5 and 7 – 13 are pending.**

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:  
**It lacks signature of the inventor(s).**

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 7 – 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 depends from the cancelled claim 6. In this office action, claim 7 has been taken to be dependent from claim 5.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 5 and 7 – 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Haddrell (GB 1,600,743).

Haddrell discloses a non return device (figs. 1, 2) comprising:

Flexible impervious wall members (4) disposed face to face, axially moveable means (2) holding said wall members spaced apart at end of the device (near the inlet end);

Wherein the device comprises a tubular body portion (8) surrounding the wall members and means (10) (that includes a nut (see Fig. 1)) are provided for compressing a portion of the wall members against the tubular body portion so as to provide a seal.

Recitations pertaining to "waste outlet" and "waste pipe" are regarded in this office action to be reflective of intended use and it is noted that the device of Haddrell as set forth above is capable of such use. The recitation of "waste" in line 13 of claim 5 is regarded as a mere identifier.

6. Claims 11 – 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Glicksman (US 5,460,200).

Glicksman discloses a non-return device (20) comprising:

Flexible impervious wall members (22,24) of complementary shapes disposed face-to-face in surface contact; and

Means holding said walls spaced apart (near (34)) at end of the device wherein the thickness of the wall members is in the range of 1% to 2% of their width. (Col. 4, lines 20 – 26).

Recitations pertaining to "waste outlet" and "waste pipe" are regarded in this office action to be reflective of intended use and it is noted that the device of Glicksman

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as set forth above is capable of such use. The recitation of "waste" in line 14 of claim 11 is regarded as a mere identifier.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1 – 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Hara et al. (GB 2,296,309 A) over BE 669,967.

O'Hara et al. discloses (Figs. 1 – 5) a non-return device comprising:

Flexible impervious wall members (7,9) having complementary shapes; means (13, 14) holding said wall members spaced apart at an inlet end (near (12)); wherein the device comprises a tubular body portion (3) surrounding the wall members.

The patent to O'Hara et al. discloses the claimed invention with the exception of explicitly disclosing a tubular outlet portion extending from the outlet end of the tubular portion to have a diameter different therefrom with radially offset axes.

The document BE '967 discloses (Figs. 1, 2) a non-return device wherein a tubular outlet portion (9) extending from the outlet end of a tubular portion (2) to have a diameter different therefrom with radially offset axes, thereby providing a desired flow through the device.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided in O'Hara et al. a tubular outlet portion extending

from the outlet end of the tubular portion to have a diameter different therefrom with radially offset axes, for the purpose of providing a desired flow through the device.

***Response to Arguments***

9. Applicant's arguments filed 10/17/05 have been fully considered but they are not persuasive. Applicant's arguments concerning the Haddrell reference are that (1) the compression of the wall members occurs as the device is axially attached to a fluid supplying component and (2) the support for the wall member is not axially constrained within the housing. As for (1) it is noted that the limitation is not presently recited in the claims rendering moot any argument pertaining thereto. As for (2), it is noted that the supporting sleeve (2) is indeed constrained (See Fig. 1) and cannot simply be removed from the housing as suggested by the applicant. Regarding the Glicksman reference applicant's argument is that Glicksman does not disclose the use of the nonreturn device between a waste outlet and a waste pipe. In response it is noted that recitations pertaining to waste outlet and a waste pipe are reflective of intended use and the applied reference i.e. Glicksman need only be capable of such use. In this instance, Glicksman is indeed capable of such use. In regard to BE '697 patent, it is noted that applicant's arguments concern the structure of the valve in the BE '697 patent. However, the office action does not rely on the valve structure of BE '897 patent. The valve structure relied on in the office action is from the GB '309 document. Thus the arguments of the applicant concerning the BE '697 patent are considered moot.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

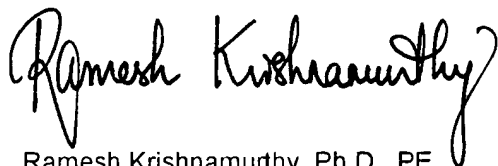
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramesh Krishnamurthy whose telephone number is (571) 272 – 4914. The examiner can normally be reached on Monday - Friday from 10:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen L. Blau, can be reached on (571) 272 – 4406. The fax phone number for the organization where this application or proceeding is assigned is (571) 273 – 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ramesh Krishnamurthy, Ph.D., PE  
Primary Examiner  
Art Unit 3753